IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 917 (SS) OF 2004

Naveen Kumar Deorani,
S/o Sri Mohan Lal, R/o H. No. 185, Police Line,
Race Course, Dehradun. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Home, Secretariat, Dehradun.
2. Director General of Police Head Office, Dehradun.

.....Respondents.

Sri B.P. Nautiyal, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 01.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to consider the petitioner for promotion in the light of G.O. dated 24.10.2001.

2. Briefly stated, the petitioner was appointed on 08.078.1980 in 23rd B.N. P.A.C. Moradabad and he passed Pre-Basic in the year, 1982. In the year, 1982, petitioner passed Basic Armarer Course ATC, Sitapur. In the year, 1984-85, the petitioner passed PTI qualifying course. Thereafter, the petitioner was appointed as P.T. Instructor at ATC Sitapur. In the year, 1988-89, the petitioner was appointed as P.T. Instructor after transfer to Moradabad Training School.

3. Learned counsel for the petitioner has submitted that the petitioner was entitled for promotion as Head Constable before appointing him as Instructor in the year, 1985.

4. Learned counsel for the the petitioner has further submitted that in the year, 1986, the petitioner passed the examination for departmental promotion and inspite of passing the departmental examination, it was advised to the

petitioner that at this time other constables are being promoted, he will be given chance later on and on this assurance the petitioner was deprived of his legitimate claim for promotion in the year, 1986.

5. In the year, 1988-89, the petitioner was appointed as PT Instructor though he was appointed as Instructor in Police Training School after serving as Constable for more than 8 years.

6. The grievance of the petitioner is that on one hand, he was appointed to discharge the duties of Instructor and on the other hand, he was not being given promotion inspite of the fact that the petitioner was fully entitled for the promotion keeping in view the service period.

7. Learned counsel for the petitioner has submitted that as per law, the petitioner is entitled for time-scale promotion after completion of five years of his service specially when the petitioner is otherwise entitled for time scale promotion as per G.O. dated 24.10.2001 passed by the respondent no. 1.

8. The petitioner has submitted that on 08.06.2004 he has made representation stating his grievance, but the same has not yet been disposed of.

9. A counter affidavit has been filed by the State, where in paragraph 4, 5, and 8, it has been stated as under:-

"4. That the contents of para 7 of the writ petition need no comments for want of knowledge, but there is no mentioned in his service records, that the petitioner has passed the examination for departmental promotion in the year, 1986. However, it pertinent to mention here that the petitioner had been awarded misconduct and adverse remarks in his service book ion the year, 1986. The copy8 of the relevant portion of the service book is being annexed

herewith and marked as ***ANNEXURE C.A.-1*** *to this affidavit.*

5. That the contents of para 8 of the writ petition are denied. It is clarified here that it is correct to state that petitioner was posted at P.T.S. Moradabad in the year, 1988-89, but it is not mentioned in serviced book of the petitioner that he was posted there as P.T. Instructor. While adverse annual remark is mentioned in the service of book for the year, 1988-89. It is further stated that petitioner was not entitled for promotion, as per Police Regulation, which provides that only those constables are eligible for promotion, who has qualified the departmental promotion examination while, the petitioner has mother submitted any document to show that he has qualified the required departmental examination for promotion nor it is mentioned any where in the service book of petitioner. It is also pertinent to mention here that only to qualify the P.T.I. Course is not the sole criteria for promotion.

8. That in reply to the contents of para 11 of the writ petition it is stated that as per said Government Order of State of Uttaranchal dated 22/11/2001 which is annexed as Annexure 3 to the writ petition, the pay scale as per rule payable to the Head Constable had already been sanctioned to the petitioner. As per departmental rules the sanction for the pay scale to the petitioner payable to the Inspector is under consideration on his completion of 24 years of service including training period."

10. However, in view of the above, the respondents are directed to dispose of the representation filed by the petitioner dated 08.06.2004 considering hi promotion in the light of the G.O. dated 24.10.2001 within a period of two months from the date of presentation of the certified copy of the order.

11. Writ petition is disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

01.03.2006
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